

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JAMES DOUGLAS SMITH,)
)
 Plaintiff,)
v.) No. 3:08-0766
) JUDGE ECHOLS
STATE OF TENNESSEE, et al.,)
)
 Defendants.)

ORDER

Pending before the Court are the Report and Recommendation ("R&R") entered by the United States Magistrate Judge on October 16, 2008 (Docket Entry No. 15) and Defendants' Motion To Dismiss (Docket Entry No. 9), to which Plaintiff James Smith did not respond. No objections to the R&R were filed.

In reviewing an R&R, the Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

Because Plaintiff has not kept the Court apprised of his current address, the Magistrate Judge recommends dismissal of the case without prejudice for failure to prosecute. Having carefully reviewed the file, the Court finds that no error of fact or law appears in the R&R. Accordingly,

(1) the R&R of the Magistrate Judge (Docket Entry No. 15) is hereby ACCEPTED;

(2) this case is hereby DISMISSED WITHOUT PREJUDICE for Plaintiff's failure to prosecute;

(3) Defendants' Motion To Dismiss for failure to state a claim (Docket Entry No. 9) is hereby DENIED; and

(4) entry of this Order on the docket shall constitute entry of final Judgment in accordance with Federal Rules of Civil Procedure 58 and 79(a).

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Robert L. Echols", is written over a horizontal line.

ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE